

Ronald Wilcox • Attorney at Law

REPRESENTING INDIVIDUALS IN ALL ASPECTS OF FINANCIAL REORGANIZATION AND BANKRUPTCY

TEL: (408) 296-0400 • FAX: (408) 296-0486

July 20, 2012

Hon. Edward M. Chen
United States District Court
Northern District of California
450 Golden Gate Ave
San Francisco, CA 94102-3483

Re: C11-3007 EMC Freeman v. ABC

And the following related cases:

C11-3542 EMC Ansari v. ABC
C11-3805 EMC Rosales v. Pembleton
C11-3824 EMC Jones v. ABC
C11-5152 EMC Barreto v. ABC
C12-0624 EMC Sparacino v. ABC
C12-0642 EMC Paule v. ABC
C12-0644 EMC Wyckoff v. ABC
C12-0678 EMC Walker v. ABC
C12-1693 EMC Kamin v. ABC
C12-1696 EMC Clohan v. ABC
C12-1904 EMC Younger v. ABC
C12-1911 EMC Brown v. ABC
C12-1914 EMC Dohm v. ABC

To the Honorable Edward Chen,

Plaintiff files this letter requesting leave to file a Motion to Consolidate, or for the Court to act sua sponte and consolidate these related fourteen matters, and for the Court to extend the deadline for Plaintiff to file Amended Complaints, until such time as the Court has decided the issue of consolidation. In a Minute Order filed May 30, 2012, the Court stated (See Docket #73):

“Before filing any further motions, parties must e-file a letter to the Court for prior approval. Court intends to hear only those motions which are necessary and likely to advance the cases in an efficient manner.”

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Legal Principles

- "When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." *Fed. R. Civ. P. 42(a)*.
- The purpose of consolidation is to enhance trial court efficiency and to avoid the substantial danger of inconsistent adjudication. *E.E.O.C. v. HBE Corp.*, 135 F.3d 543, 551 (8th Cir. 1998), *Paxonet Communs., Inc. v. Transwitch Corp.*, 303 F. Supp. 2d 1027, 1028-1029 (N.D. Cal. 2003), *Rendon v. City of Fresno*, 2006 U.S. Dist. LEXIS 41140 (E.D. Cal. 2006).
- "Once a common question has been established, "consolidation is within the broad discretion of the district court." *Id.* (internal quotations omitted.) *Paxonet Communs., Inc. v. Transwitch Corp.*, 303 F. Supp. 2d 1027, 1028-1029 (N.D. Cal. 2003),
- To determine whether to consolidate, the interest of judicial convenience is weighed against the potential for delay, confusion, and prejudice caused by consolidation. *Id.* (citing *Southwest Marine, Inc. v. Triple AAA Machine Shop, Inc.*, 720 F. Supp. 805, 807 (N.D. Cal. 1989).

Discussion

As the Court noted in its Order denying Defendants' Motion to dismiss the earlier filed case (*Freeman v. ABC Legal Services, Inc.*, 827 F. Supp. 2d 1065 (N.D. Cal. 2011)):

Ms. Freeman asserts that Defendants engaged in the following conduct: (1) manufacturing and selling a fraudulent Proof of Service of Summons that falsely stated Plaintiff was validly served; (2) encouragement, assistance and engagement in "sewer service"; (3) ratification of fraud, perjury and breach of official duty; (4) failure to comply with California Business and Professions Code §§ 22350-22360; (5) failure to implement policies and procedures ensuring quality control of service of processes; (6) falsification of electronic signatures on service of processes; (7) aiding and abetting Defendant Smith to provide fraudulent service of processes; and (8) engagement in unfair competition in violation of California Business and Professions Code § 17200.

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The similarities in the fourteen cases show that they lend themselves to consolidation. Indeed, the Court noted on July 3, 2012 (Docket # 77):

“Because the factual issues relevant to the motions are largely identical between the cases (except as otherwise stated), the Court refers generically to “Plaintiffs” and “Defendant” in this Order, and all docket citations are to the *Freeman* matter unless otherwise noted.”

Furthermore, at the previous Case Management Conference the Court inquired about consolidating these matters. As Plaintiff’s counsel reviewed this matter it does seem more efficient if this were one matter.

On July 6, 2012, Plaintiff sent an email offering to consolidate these matters. On July 18, 2012, Plaintiff telephoned Defendant’s counsel, Bill Weissberg and discussed the matter further, and also sent Defendants a proposed Stipulation to Consolidate. Exhibit 1. Defendants have not agreed to consolidate these matters.

Thus, Plaintiff respectfully files this herein request for leave to file a Motion to Consolidate, or for the Court to act sua sponte and consolidate these related fourteen matters, and for the Court to extend the deadline for Plaintiff to file Amended Complaints, until such time as the Court has decided the issue of consolidation.

Date: 7/20/12

/s/Ronald Wilcox
Counsel for Plaintiffs

EXHIBIT 1

Fred W. Schwinn (SBN 225575)
CONSUMER LAW CENTER, INC.
12 South First Street, Suite 1014
San Jose, California 95113-2418
Telephone Number: (408) 294-6100
Facsimile Number: (408) 294-6190
Email Address: fred.schwinn@sjconsumerlaw.com

Attorney for Plaintiff
RUBY NELL FREEMAN

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA SAN FRANCISCO DIVISION**

RUBY NELL FREEMAN,

Plaintiff,

v.

ABC LEGAL SERVICES, INC., a Washington
corporation; GRANVILLE EWING SMITH, III,
individually and in his official capacity; and
DOES 1 through 10, inclusive,

Defendants.

Case No. 3:11-CV-03007-EMC

and the following related cases:

3:11-CV-03542-EMC - Ansari v. ABC Legal
3:11-CV-03805-EMC - Rosales v. Pembleton
3:11-CV-03824-EMC - Jones v. ABC Legal
3:11-CV-05152-EMC - Barreto v. ABC Legal
3:12-CV-00624-EMC - Sparacino v. ABC Legal
3:12-CV-00642-EMC - Paule v. ABC Legal
3:12-CV-00644-EMC - Wyckoff v. ABC Legal
3:12-CV-00678-EMC - Walker v. ABC Legal
3:12-CV-01693-EMC - Kamin v. ABC Legal
3:12-CV-01696-EMC - Clohan v. ABC Legal
3:12-CV-01904-EMC - Younger v. ABC Legal
3:12-CV-01911-EMC - Brown v. ABC Legal
3:12-CV-01914-EMC - Dohm v. ABC Legal

**STIPULATION TO CONSOLIDATE and
[Proposed] ORDER**

1
2 The parties hereby stipulate and request:

3 That the above-captioned actions be consolidated pursuant to Federal Rule of Civil Procedure
4 42(a), for all purposes, and that henceforth, all documents to be filed in the above captioned actions
5 shall make reference to and be denominated as Case No. 3:11-CV-03007-EMC only.
6
7

8 Dated:

9 By: _____
10 Ronald Wilcox
11 Attorney for Plaintiffs
12 RUBY NELL FREEMAN

13 Dated:

WEISBERG & MILLER

14 By: _____
15 William Weissberg
16 Attorney for Defendant
17 ABC LEGAL SERVICES, INC.

18 Dated:

HINSHAW & CULBERTSON, LLP

19 By: _____
20 David Dalby
21 Attorney for Defendant
22 GRANVILLE EWING SMITH, III
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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am a resident of the County aforesaid; I am over the age of eighteen years old and not a party to the within action; my business address: is 1900 The Alameda, Suite 530, San Jose, CA 95126.

I served the within:

Letter to Hon. Edward Chen re Motion to Consolidate, etc.

By first class U.S. mail postage pre-paid to:

Granville Ewing Smith, III
3090 Shane Drive
San Pablo, CA 94806

Executed in San Jose on July 20, 2012

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/Liliana Alba-Bermejo
Paralegal